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8 Attorneys for Defendant
B&H EDUCATION, INC.
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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 JACQUELINE BENJAMIN, PATRICIA CAULEY,
BRYAN GONZALEZ and TAIWO KOYEJO,
13 Individually and on behalf of all others similarly
situated,

14 Plaintiffs,

15 v.

16 B&H EDUCATION, INC., a corporation, dba
17 "MARINELLO SCHOOLS OF BEAUTY"; and
DOES 1 through 100

18 Defendants.
19

Case No.: 13-CV-04993 VC

**JOINT STIPULATION REGARDING
DISCOVERY AND ~~PROPOSED~~
ORDER**

Ctrm: 4
Judge: Hon. Vince Chhabria

1 Plaintiffs JACQUELINE BENJAMIN, PATRICIA CAULEY, BRYAN GONZALEZ and
2 TAIWO KOYEJO ("Plaintiffs"), by and through their counsel of record, and Defendant B&H
3 EDUCATION, INC., ("Defendant"), by and through its counsel of record, hereby agree and stipulate
4 as follows:

5 WHEREAS, Plaintiffs served certain discovery requests on Defendant which seek disclosure
6 of certain personally identifiable and/or personal information of non-party, putative class member
7 former students of Defendant. Defendant objected to disclosure of the information on, among other,
8 grounds that, in its view, disclosure of the information absent a judicial court order and reasonable
9 advance notice to the affected non-party students with an opportunity to object to the disclosure of
10 their information violates the Family Education Rights and Privacy Act, 20 U.S.C. § 1232g, *et seq.*
11 ("FERPA").

12 WHEREAS, counsel for the parties have agreed that the affected non-party students at issue
13 consist of those students who were classmates of each of the named Plaintiffs (those who enrolled in
14 Plaintiffs' programs at their campuses during the same month as each Plaintiff enrolled as well as
15 within one month before and one month after when each Plaintiff enrolled).

16 WHEREAS, counsel for the parties have agreed that for the purposes of this proposed Order,
17 the contact information includes the affected non-party students' name, phone number, address,
18 email address, dates attended at Marinello Schools of Beauty, and campus attended to the extent this
19 information is already in Defendant's possession.

20 WHEREAS, counsel for the parties met and conferred and agreed to issuance of the proposed
21 Order and agreed to an opt-out notice procedure to the affected non-party, putative class member
22 students consistent with what Defendant maintains is required of it under FERPA and to protect the
23 non-party students' FERPA rights and privacy rights.

24 WHEREAS, counsel for the parties have agreed that the disclosure shall be made as follows:
25 (a) Defendant shall mail the attached Opt-out Notice to the affected non-party students by no later
26 than 10 days after the Court approves this proposed Order; (b) the affected non-party students shall
27 be provided 21 days to mail or email a prepaid postcard to Defendant as provided by the Opt-out
28

1 Notice; (c) Defendant shall provide Plaintiffs with the contact information for all affected non-party
2 students who did not mail or email the prepaid postcard to Defendant within the timeframe provided
3 by the Opt-out Notice by no later than 15 days after the close of the opt-out period.

4 WHEREAS, counsel for the parties have agreed that any contact information produced by
5 Defendant will be marked confidential subject to the protective order in place in this action.

6 IT IS SO STIPULATED.

7
8 Dated: March 20, 2015

DUANE MORRIS LLP

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10 By: s/ Jess R. Booth
11 Julie A. Vogelzang
12 Edward M. Cramp
13 Courtney L. Baird
14 Jess R. Booth
15 Attorneys for Defendant
16 B&H EDUCATION, INC.

17
18 Dated: March 20, 2015

RUDY, EXELROD, ZIEFF & LOWE, LLP

19 By: s/ Chaya M. Mandelbaum
20 David A. Lowe
21 Chaya M. Mandelbaum
22 Michelle G. Lee
23 Attorneys for Plaintiffs
24 JACQUELINE BENJAMIN, PATRICIA CAULEY,
25 BRYAN GONZALEZ and TAIWO KOYEJO
26
27
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~~PROPOSED~~ ORDER

Upon consideration of the Joint Stipulation Regarding Discovery between Plaintiffs and Defendant and good cause shown IT IS HEREBY ORDERED as follows:

Consistent with Defendant's obligations under the Family Education Rights and Privacy Act, 20 U.S.C. § 1232g, *et seq.* ("FERPA") and to protect Defendant's non-party former students' FERPA and privacy rights, prior to disclosure of certain personally identifiable and/or personal information of non-party, putative class member students including their name, phone number, address, email addresses, dates attended at Marinello Schools of Beauty, and campus attended, which has been requested by Plaintiffs from Defendant in this action, the affected non-party students shall be provided with reasonable advance notice and an opportunity to object to the disclosure of the information as set forth below:

(a) Defendant shall mail the attached Opt-out Notice to the affected non-party students by no later than 10 days after the date this Order is entered. For purposes of this Order, "affected students" refers to the non-party students who were classmates of each of the named Plaintiffs (those who enrolled in Plaintiffs' programs at their campuses during the same month as each Plaintiff enrolled as well as within one month before and one month after when each Plaintiff enrolled).

(b) The affected non-party students shall be provided 21 days to mail or email a prepaid postcard to Defendant as provided by the Opt-out Notice;

(c) Defendant shall provide Plaintiffs with the contact information for all affected non-party students who did not mail or email the prepaid postcard to Defendant within the timeframe provided by the Opt-out Notice by no later than 15 days after the close of the opt-out period; and

(d) Any contact information produced by Defendant will be marked confidential subject to the protective order in place in this action.

IT IS SO ORDERED.

Dated: March 24, 2015



HON. VINCE CHHABRIA

OPT-OUT NOTICE

Several former students of Marinello Schools of Beauty's (the "School") cosmetology program ("Plaintiffs") have brought an action against the School on behalf of themselves and other current and former students. Plaintiffs allege they are entitled to unpaid wages and other related relief. The School denies the claims and allegations and is defending against the action.

The action is currently pending in United States District Court for the Northern District of California and student records indicate that you are a classmate of Plaintiffs.

As a former student of the School, the School respects and maintains your privacy rights and interest in your student records and other personally identifiable information. You have a right to privacy in your student records and personally identifiable information under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g. Pursuant to the Family Educational Rights and Privacy Act of 1974, the School is generally prohibited from releasing your school records or any personally identifiable information about you to any third party without your written consent. You are being provided this notice to give you as an affected student, an opportunity to object to the disclosure of your confidential information.

Plaintiffs' counsel have sought a judicial order in connection with the action to obtain your personal information including your (i) name, (ii) phone number, (iii) address, (iv) email address, (v) dates attended the School, and (vi) campus attended. Plaintiffs' counsel may use this information to contact you regarding your experience while enrolled at the School. You are under no obligation to talk with Plaintiffs' counsel.

**IF YOU DO NOT WANT YOUR CONTACT INFORMATION DISCLOSED YOU
MUST COMPLETE AND MAIL OR EMAIL THE ENCLOSED PRE-PAID POSTCARD
TO THE ADDRESS LISTED ON THE POSTCARD BY NO LATER THAN**

ENCLOSURE POSTCARD

YOU MUST MAIL OR E-MAIL THIS POSTCARD BY **IF YOU DO**
NOT WANT YOUR INFORMATION DISCLOSED

Duane Morris, LLP
Attn: Marinello Schools of Beauty, c/o Julie Vogelzang
750 B Street, Suite 2900
San Diego, CA 92101
jvogelzang@duanemorris.com

Pursuant to the Family Educational Rights and Privacy Act of 1974, I hereby object to disclosure to Plaintiffs' counsel of my contact information maintained by Marinello Schools of Beauty including my name, phone number, address, email address, dates attended, and campus attended.

Signed _____

Dated: _____

Print Name: _____